IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO.1278 OF 2003

Maharashtra State Road Transport
Corporation. .. Appellant

Versus

Prabhakar shantram Sawant .. Respondent

Mr.C.M.Lokesh i/b Mr.G.S.Hegde for appellant.

CORAM : P.V.KAKADE, J.

DATE : 22nd NOVEMBER, 2004

P.C.:

1. Heard the learned advocate for the appellant.

2. This is an appeal against the judgment and order passed on 26th July, 2001 passed by Member of M.A.C.T. Ratnagiri partly allowing the Motor Accident claim Petition No.3 of 1999 whereby Opponent Nos.1 to 3 were directed to pay Rs.46,000/= to the claimant along with

interest at the rate of 9% p.a. from 6.1.1990. Against this order the original Respondent No. 3 has come in appeal, inter alia, submitting that in fact there was no injuries to the victim and therefore, there was no reason to grant compensation to the extent of Rs.46,000/=.

3. With the help of the learned counsel I have perused the entire judgment of the Lower Court. While discussing Issue No.2 regarding factum of injuries, it is apparent that Medical Certificate Exh.28 as well as Exh.30 were pertaining to the injuries of the claimant. The document Exh.28 issued by Medical Officer, General Hospital, Ratnagiri showing that the claimant suffered contused lacerated wound and also contusion on his shin and right knee and said contusion was noted as grievous. Certificate Exh.30 issued by Primary Health Centre, also shows the same injuries, those were not disputed by the present appellant and therefore, the learned Member came to the conclusion that even though there was no fracture injuries caused in the said accident the injuries suffered were sufficient to make the claimant entitled for compensation.

4. The original claim was made by the claimant at Rs.1,00,000/=. The learned Member of the MACT has concluded that the evidence on record was sufficient to show that the amount of Rs.25,000/= would be proper compensation for loss of business due to injuries suffered by the claimant. Similarly an amount of Rs.15,000/= is granted on the ground of pains and mental agony and medical expenses, which were proved and were come to the tune of Rs.6,233/- and therefore, it was found that the claimant was entitled to an amount of Rs.46,000/= towards total compensation on all counts and award came to be passed in that regard.

5. The fact that no fracture injury was caused cannot be said to be the ground to refuse any compensation on that count, especially when there was hurt to be found in the course of the accident to the claimant. In view of this aspect I hold that the learned Member of the MACT has rightly adjudicated the dispute on merits, including the rate of interest and therefore, the appeal is liable to be dismissed in limine and stands dismissed accordingly.

6. In view of this position the deposit of Ra.12,500/=

made under section 173 of the M.V. Act be transferred to the Lower Court to be adjusted with the decretal amount, if it is not withdrawn already.